



New South Wales Government

NSW Government Procurement Guidelines

Economic Development

October 2008

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further information	NSW Procurement Client Support Centre
phone	1800 NSW BUY (1800 679 289)
e-mail	nswp_support@commerce.nsw.gov.au

These guidelines were prepared by the NSW Department of Commerce for the NSW Government. They are available from the procurement process maps on

<http://www.treasury.nsw.gov.au/procurement/procure-intro.htm>.

For further information on these guidelines contact NSW Procurement help desk by phone 02 9372 8600 or e-mail nswp_support@commerce.nsw.gov.au.

Issue log

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2.0	October 2006	Minor editorial changes
2.1	October 2008	Update of price preference scheme

Related Guidelines

[NSW Government Procurement Policy](#)

[NSW Government Code of Practice for Procurement](#)

[NSW Government Tendering Guidelines](#)

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1 About this guideline

The NSW Government recognises that there are substantial economic benefits which flow from buying Australian or New Zealand (ANZ) goods and services and maximising opportunities for local service providers to compete for Government business on the basis of value for money.

This guideline assists agencies and service providers to strengthen the link between government procurement and economic development to deliver tangible benefits for the State of NSW.

2 Economic development in NSW Government procurement

NOTE: [Treasury Circular 07-18, Procurement Economic Development Guidelines Amendment to Price Preference Scheme](#), was released on 19 December 2007. Effective 1 January 2008, the Procurement Price Preference Schemes (comprising the Australia New Zealand Price Preference Margin and Country Industries Preference Scheme) ceased to apply to large enterprises, consistent with NSW obligations under the Australia United States Free Trade Agreement.

Agencies will need to amend the methodology for calculating preferences.

This guideline is being updated.

Obtaining best value for money is the prime consideration in any procurement decision. Economic development is an objective for consideration in the NSW Government Procurement Policy framework. Agencies are to consider and integrate the following economic development strategies in their procurement planning and procedures. These include:

- identification of local industry capability in all major areas of procurement
- provision of advance notice to industry of all major procurements and briefing service providers prior to complex tender submissions
- establishment of specifications and evaluation procedures that do not unnecessarily restrict innovation, and provide local service providers with the opportunity to compete on the basis of value for money
- seeking of goods and services from ANZ service providers, including small to medium sized enterprises (SMEs) and regional service providers

- review of tendering procedures to minimise costs to tenderers, consistent with the objective of ensuring best value for money to the procuring agency
- provision of information to local unsuccessful tenderers to improve their competitiveness, consistent with confidentiality and probity requirements
- evaluation of service provider performance and appropriate recognition of best practice providers when tendering for subsequent government business
- development and maintenance of high standards of efficiency and professional conduct in all dealings with service providers
- selection of goods and/or services that meet the agency's requirements and offer best value for money on a whole of life basis (including logistics, service, client responsiveness and adaptability).

Further details are outlined in the next section on Economic Development Strategies.

Measures to be undertaken by agencies/service providers for different procurement sizes include those shown in the following table.

Procurement size	Actions by agencies and service
Up to \$100,000	Agencies are to: <ul style="list-style-type: none"> – identify ANZ service providers and provide them with an opportunity to submit quotes or tender responses – apply the NSW Government Preference Schemes.
\$100,000 up to \$1 million	Agencies are to: <ul style="list-style-type: none"> – consider and document the scope of economic development opportunities offered by the procurement in their procurement plan – include appropriate economic development criteria in the tender documents if the contract and industry concerned is of strategic importance to economic or regional development – if required, ensure economic development criteria are integrated into the tender evaluation process – apply the NSW Government Preference Schemes.
Above \$1 million, or procurement of a complex or strategic nature	Agencies are to: <ul style="list-style-type: none"> – ensure tenders include appropriate economic development criteria and contracts include economic development clauses – ensure economic development criteria are integrated into the tender evaluation process – apply the NSW Government Preference

Procurement size	Actions by agencies and service
	<p>Schemes or prepare an Industry Impact Statement (IIS) for contracts above \$5 million or at a lower threshold if the contract and industry concerned is of strategic importance to economic or regional development</p> <ul style="list-style-type: none">- contact the NSW Industry Capability Network for proposed procurements to ensure tenders provide local industries the opportunity to compete for government business. <p>Prospective service providers are to:</p> <ul style="list-style-type: none">- respond to appropriate economic development criteria- provide a Local Industry Participation Plan in response to the IIS.

NSW Industry Capability Network (ICN)

The [NSW Industry Capability Network](#) (ICN) is a business advisory service, managed by industry and funded by the NSW Government. ICN exists primarily to assist business and buying organisations to obtain their requirements from local producers who can provide goods, equipment and services against imports. The ICN provides a free service of identifying the supply capabilities of Australian manufacturers and import replacement.

Agencies are to make better use of the NSW ICN to help local industries, SMEs and regional enterprises gain access to the government market.

NSW Government Preference Scheme

NOTE: [Treasury Circular 07-18, Procurement Economic Development Guidelines Amendment to Price Preference Scheme](#), was released on 19 December 2007. Effective 1 January 2008, the Procurement Price Preference Schemes (comprising the Australia New Zealand Price Preference Margin and Country Industries Preference Scheme) ceased to apply to large enterprises, consistent with NSW obligations under the Australia United States Free Trade Agreement.

Agencies will need to amend the methodology for calculating preferences.

This guideline is being updated.

Australia and New Zealand (ANZ) price preference margin

The Australia and New Zealand (ANZ) price preference margin provides for a 20% price margin to be added on to the imported content of non-ANZ goods (and related services). The margin is applied for the purpose of tender response evaluation. Agencies should ensure that the tender documents require tenderers to submit with their tender response the imported (non-ANZ) content of the goods offered.

No preference margins are applied for the procurement of services alone (that is, unrelated to goods).

The ANZ price preference margin is to be applied as a general requirement, but will be progressively set aside and replaced by a more rigorous Industry Impact Statement (IIS) approach.

Country Industries Preference Scheme

The Country Industries Preference Scheme (CIPS) is applied to support approved industries in country NSW and provides for price preference margins of 2.5% and 5%, as appropriate, to approved country manufacturers. The margins can only be applied if:

- there are no preferred or conforming bids from other States, Territories or New Zealand
- the country manufacturer claiming the preference margin is registered with the Department of State and Regional Development and quotes its CIPS number on its tender response
- the country manufacturer is the prime contractor tendering to supply goods and related services for which it is registered.

Information on the NSW Government Preference Scheme is available from the [Department of State and Regional Development](#) or the [Department of Commerce](#).

See Appendix B for examples on the application of the schemes.

3 Economic development strategies

Identification of local industry capacity

As a general requirement, agencies should ask service providers to provide tender responses which maximise the use of goods and services that originate in Australia or New Zealand. Tender responses are then to be assessed on the basis of best value for money—particularly where the locally sourced tender response offers equal or better value for money over its whole life cycle.

The [NSW Industry Capability Network \(ICN\)](#) works with appropriate organisations to seek opportunities from offshore projects and import replacement. It maintains a database of NSW industry, has ready access to ANZ databases of industry capability, and brokers relationships between buyers and potential local service providers.

When inviting tenders, agencies should contact the ICN to determine whether they can maximise the identification of local industry capability and capacity.

Advance notice of tenders

Providing advance notice of planned tenders enables prospective service providers (particularly SMEs) the opportunity to ensure they have the appropriate capability and capacity to undertake the contract. Advance notice of tenders may be provided in a number of ways:

- by advertising on the e-tenders web site <https://tenders.nsw.gov.au/nsw/index.shtml>
- posting advanced tender information on a notice board at the Head Office of the agency concerned
- providing the rolling information on the internet.

Agencies are not to seek tenders unless they propose to proceed with the contract. Advance tender information should only be published once an agency has made that decision. This ensures that the cost to service providers doing business with government is minimised.

Unbiased specifications and evaluation procedures

Specifications should be designed to provide opportunities for ANZ suppliers by ensuring they are appropriately tailored to actively encourage tender responses from local and regional enterprises. Where the products and/or services may be too large for one SME's capacity and capability to undertake alone, these enterprises should be given the opportunity to prepare tender responses for those larger projects by forming consortia and joint ventures. Specifications should not be rigid, they should concentrate on outcomes (rather than technical requirements) and be designed to invite and encourage innovative solutions.

During the procurement planning process (for larger or higher risk procurements) it is essential that agencies consider:

- the direct effect of contract decisions on local enterprises
- possible flow-on effects to State and regional economies
- any social ramifications for local communities.

Strategies to overcome or manage the social effects associated with the procurement should be developed and incorporated into procurement plans. It is essential that agencies treat all prospective service providers equally and select the best value for money outcome for the agency and the Government.

Identify industry effects

For strategic, complex or high value procurement, agencies are required to prepare a procurement plan. Where the procurement may have a substantial economic or industry effect, the agency should research the economic environment and the industry and include the likely effects in the agency's procurement plan.

The research will assist agencies to:

- determine a profile of the procurement's strategic importance in developing industry capability and enhancing the global competitiveness of local industry
- prepare a brief to assist industry with their programming of work in areas with potential industry development opportunities
- form the basis for setting economic development criteria used to evaluate tender responses

- determine the value for money outcomes that could be expected from industry development opportunities in the short to long term.

For procurement in excess of \$5 million (or at a lower threshold if the industry is of strategic importance), agencies are required to include an Industry Impact Statement (IIS) with their tender documentation.

See Appendix C for Preparation of Industry Impact Statements.

Small to medium sized enterprises development & local industry participation

Small to medium sized enterprises, including regional providers, are an important contributor to the economic well-being of NSW.

To encourage more small to medium sized enterprises to participate in government procurement, agencies should consider using the following:

- seek local interest—where local service providers are offered the opportunity to compete for business
- economic development criteria—inclusion of economic development criteria in the tender documents and the evaluation process - requiring service providers to develop local industry participation plans to respond to Industry Impact Statements
- simplified procurement procedures, removal of biases against small to medium sized enterprises in tender documentation, prompt payment of accounts, use of tools such as electronic procurement and where feasible, seminars for prospective service providers on doing business with government
- advertising and publications that include advance notice of tenders
- provision of assistance to local unsuccessful tenderers to assist with future tender responses
- use of electronic commerce, such as [smartbuy](#)® and e-tendering, can provide better access to information on the government market and overcome problems of geographic isolation. The publication of government business opportunities on the internet will provide greater opportunity for small to medium enterprises to participate in government work.

Local industry participation

This includes those activities undertaken in Australia relating to the development, design, construction and management of a project, delivery of goods or selected services (including activities that the service provider will undertake as well as those that will be contracted out to other parties).

Where an agency wishes to support a specific industry sector or promote improved access to small and medium sized enterprises or regional enterprises, local participation requirements may be included in the tender documents requiring private sector service providers to provide proposals that identify and maximise ‘opportunities for local industry participation’.

Local Industry Participation Plan

Service providers are to develop a Local Industry Participation Plan (LIPP) in response to the agency’s Industry Impact Statement. The LIPP should include:

- a clear statement on how it meets the Government’s requirement of maximising opportunities for local industry participation
- advice on how the actions outlined may fit into the tenderer’s global or regional strategy and the possible impact on subsequent investment in the region
- arrangements for identification of technology development needs which could be met by the use of proven or new local technologies
- a description of existing projects in which the tenderer is participating including service provider networks and long term
- processes to be used to alert those responsible for procurement of the need to maximise local industry participation
- a description of investments or other projects that may result from the project should the tender response be successful
- arrangements (including supply chain management) for managing the requirements, monitoring performance and reporting under the plan
- elements of the plan which the tenderer wishes to negotiate with the agency and include as specific items in the contract.

The evaluation of tender responses should include assessment of the LIPP on the basis of:

- content and comprehensiveness—the extent to which the plan addresses the requirements
- feasibility—whether the arrangements are practical, manageable and serviceable
- cost effectiveness—the effect of the proposals on the cost of the project
- level of economic impact—whether the arrangements will lead to increased opportunities for local industry with regard to sales, investment, employment and exports, for example
- commitment—whether the plan demonstrates the willingness of the service provider to encourage local industry participation and whether realistic performance measures can be agreed.

Following evaluation of tender responses, the LIPP prepared by the successful tenderer forms part of the contract with the agency.

Provision of information to unsuccessful tenderers

This is very important for service provider development. Providing service providers with information as to why they were unsuccessful with their tender response, and giving constructive suggestions on how their tender responses could be improved in future, can give substantial benefit to an agency.

The agency can also give service providers information on their current performance to assist them to continuously improve their performance and become more competitive. For further information on this see the [Service Provider Performance Management](#) guideline.

Establishment of longer term strategic alliances

Strategic alliances may provide substantial economic development benefits through infrastructure development, market and industry development, transfer of skills and employment as well as benefits from import replacement. Strategic alliances will require investments by parties to the partnership that will result in a valuable relationship.

Where established and managed well they can improve the reliability and quality of goods and services (due to better logistics and delivery systems) and at the same time reduce the total costs to an agency and its service provider.

However, care should be taken when establishing a strategic alliance between a service provider and an agency to ensure that the industry or economic development will not be adversely affected through reduced competition.

4 Economic development criteria

Selecting economic development criteria

This section outlines economic development criteria that can be included by agencies to promote industry development through procurement.

The relevance of each criterion will vary depending on a range of factors, including the size, complexity and nature of the contract. Some of the criteria may not be applicable. Alternative or modified criteria may need to be developed as required.

Evaluating tender responses

Agencies may allocate weightings for each criterion to assist in the assessment of tender responses. If this technique is used, weighting for each criterion should be determined prior to the issue of tenders or at the latest before the close of tenders.

The applicability of some of the criteria and their relative importance will vary for each contract based on a range of factors, such as:

- size and value of the contract
- nature of the procurement, for example, acquisition of services only, acquisition of goods only or a mix of goods and services
- whether the procurement is of strategic importance to the Government.

Table 1: Economic Development Criteria

SELECTING CRITERIA	EVALUATING TENDER RESPONSES
1 Development of long-term, internationally competitive industry	
The tenderer's international competitiveness and long-term growth potential.	
1a Commitment to sustainable long-term industry development	
Ascertains if the tenderer is committed to industry development that is commercially sustainable.	Tenderers should outline their future business objectives. The evaluation will favour those able to provide practical and achievable strategic business plans and appropriate supporting information.
Any industry development proposals submitted as part of the tender response should align with the tenderer's organisational orientation and goals.	
1b Development of long-term, strategic alliances	
Relates to the ability of the tenderer to create long-term strategic alliances between local service providers and service providers that operate internationally, for developing internationally competitive local industry activities.	Tenderers should provide information of any strategic alliance with international companies. Information should include: <ul style="list-style-type: none"> • trading and legal entity. Details of proposed partner organisation • management of partnerships and alliances. Details of proposed term, nature, and structure of the alliances. The evaluation will favour strategic alliances, and alliances that are underpinned contractually.
1c Export potential and/or import replacement	
Ascertains the tenderer's performance and contribution in the field of exports, import replacement and local sourcing.	Tenderers should specify: <ul style="list-style-type: none"> • how this project will enable development or extend their level of export • dollar value of net exports that may be generated by this project • value and nature of goods and services to be sourced locally • dollar value of imported goods and identify scope for import replacement. The evaluation will favour proposals that will lead to import replacement and the pursuit of export opportunities.
In relation to import replacement, tenderers can access the services of ICN to identify capable ANZ service providers, particularly SMEs and regional providers that can provide locally supplied goods and services.	

SELECTING CRITERIA	EVALUATING TENDER RESPONSES
2 Value added activity	
<p>Recognises the benefits from the growth of domestic, value adding activities. It ascertains the level of economic value added activity proposed to be undertaken should a tender response be successful.</p>	<p>Tenderers should specify the level of local economic value added activity expressed as a percentage of the overall contract price:</p> <ul style="list-style-type: none"> • for each of the goods or services offered as part of this contract • on an annual basis, over the life of the contract. <p>The evaluation will favour proposals with the highest level of local value added activity.</p>
3 SME involvement	
<p>Ensures that there are opportunities for SMEs, either as prime contractors or sub-contractors, to participate in government procurement activity and that they are not discriminated against in securing government contracts.</p>	<p>Tenderers are to state how they will provide opportunities for SMEs.</p> <p>If the project involves the formation of a relationship with one or more SMEs, tenderers are required to provide the following information:</p> <ul style="list-style-type: none"> • name of, and contacts for, each SME • description of each SME's role • estimated dollar value of each SME's contribution • level of economic value added activity and any other benefits associated with each SME. <p>The evaluation will favour tenderers that are prepared to contractually commit to supply chain management and using SMEs identified within their proposals and the value of the work that will flow through to SMEs.</p>
4 Regional development activity	
<p>Applied where there are opportunities for:</p> <ul style="list-style-type: none"> • regionally based enterprises to participate in the delivery of goods and services • the enhancement of local industry capabilities through training, skills development and adoption of new technology • increases/maintenance in regional employment' attraction and maintenance of regional investment and • research and development and innovation. 	<p>Tenderers should provide information on:</p> <ul style="list-style-type: none"> • the number and type of regionally based enterprises participating in their tender response • the expected regional economic impact of their tender response through: <ul style="list-style-type: none"> ○ training, other skills development and the adoption or maintenance of existing technologies and capabilities ○ expected increases in employment and investment or maintenance

SELECTING CRITERIA	EVALUATING TENDER RESPONSES
	<p>of new or existing employment and investment</p> <ul style="list-style-type: none"> ○ the expected impact on existing and future research and development programs and innovation. <p>The evaluation will favour proposals with a commitment to participation of regional enterprises and to activities that enhance regional development.</p>
<hr/> <p>5 Existing industry development activity and proposed new investment</p> <hr/>	
<p>Existing investment, and new investment, in improved industrial and commercial plant and equipment, where cost justified, has a positive influence on the State's capacity to improve its standard of living.</p>	<p>Some industry sectors have a strategic significance for the growth and development of NSW. If industry development will result from the contract, tenderers should be asked to indicate:</p> <ul style="list-style-type: none"> ● the level and range of activities that will be affecting the sector ● any indirect benefits which may flow to other industries ● the nature and scale of any proposed new investments that may arise as a result of a contract being awarded. <p>The evaluation will favour tenderers that are committed to industry development activities and investment.</p>
<hr/> <p>6 Innovation, research and development</p> <hr/>	
<p>Innovation, research and development are key sources of economic growth. Innovation in goods and process design, or in the delivery of services is essential to improving productivity and competitiveness.</p>	<p>If an agency identifies that an opportunity exists for innovation, or to extend the level of research and development that may be achieved from the contract, tenderers are to indicate:</p> <ul style="list-style-type: none"> ● the extent to which they intend to undertake research and development ● how the project would assist or add to the tenderer's capabilities in research and development ● the extent to which the project will lead to the transfer of new technology to the industry. <p>The evaluation will favour tenderers with demonstrated commitment to innovation and research and development.</p>

SELECTING CRITERIA
**EVALUATING TENDER
RESPONSES**

7 Workforce development

Sustainable growth in employment, improved productivity and improvement in the States prosperity require a highly skilled workforce. The NSW Government is committed to encouraging investment and job creation in NSW.

Assess the extent to which the tenderer is committed to employment, skills development and staff training.

Tenderers are to state how they will provide opportunities for:

- disadvantaged groups in the economy, particularly regionally based groups
- the use of new technology
- developing specialised skills.

and provide details of:

- the quantum, remuneration and skills levels associated with any direct increase in employment arising from the tender response
- their commitment to the training and development of staff, including apprentices and trainees
- their ability to develop jobs and investment in NSW.

The evaluation will favour proposals that demonstrate a commitment to the development of the workforce.

5 Compliance and complaints

Compliance

Agencies are to establish mechanisms to monitor compliance of successful tenderers' economic development commitments.

Contracts for strategic and high value projects should include appropriate contractual provisions in the event of non-compliance with requirements relating to economic development.

Complaints

To ensure that potential tenderers are aware that there is a complaint mechanism, the following is to appear in the request for tender or proposal documents.

Should any Australian or New Zealand service provider feel that they have been excluded from tendering or penalised in any way by contract terms or specifications in this tender or proposal they are invited to write in confidence to:

State Contracts Control Board

Level 22 McKell Building

2-24 Rawson Place

SYDNEY NSW 2000

Further information and assistance

For further information and assistance please contact one of the following organisations.

Department of State and Regional Development (DSRD)

Level 47-49, MLC Building
19 Martin Place
Sydney NSW 2000
Phone (02) 9228 3111
Website: www.business.nsw.gov.au

NSW Industry Capability Network (ICN)

Suite 3, Century Plaza,
80 Berry Street,
North Sydney NSW 2059
Phone (02) 9025 3150
Email enquiry@icnsw.org.au

State Contracts Control Board (SCCB)

The Chairperson
Level 22, McKell Building
2–24 Rawson Place
Sydney NSW 2000
Phone (02) 9372 8910
Fax (02) 9372 8844
Email: sccb@commerce.nsw.gov.au
Website:
<http://www.dpws.nsw.gov.au/Government+Procurement/State+Contracts+Control+Board.htm>

Department of Commerce

NSW Procurement - Policy Support Services
Level 11, McKell Building
2–24 Rawson Place
Sydney NSW 2000
Phone (02) 9372 8600
Fax (02) 9372 8822
Email gpshep@commerce.nsw.gov.au
Website <http://www.commerce.nsw.gov.au>

Appendix A – Memorandum of understanding (model)

Memorandum of Understanding

between

(name of NSW Agency)

and

NSW Industry Capability Network

for

**Maximising opportunities for the procurement
of Australian and New Zealand goods and services**

Parties to the Memorandum of Understanding

This Memorandum of Understanding (MOU) is between the [NSW Agency] and the [NSW Industry Capability Network \(ICN\)](#).

NSW Government Procurement Policy

Increasing opportunities for local industry and small and medium sized enterprises to compete for government business is an important element of the [NSW Government Procurement Policy](#). To assist Australian and New Zealand industry to compete for public sector business, the role of the [NSW Industry Capability Network](#) has been strengthened.

The NSW Government requires major government agencies to enter into a Memorandum of Understanding with ICN to:

- promote greater awareness of the capabilities of local suppliers, particularly small and medium enterprises, so they can be involved in government procurement in the future, and facilitate linkages with potentially competitive local suppliers for those goods and services that may otherwise be imported
- promote the Government's wider economic and social development objectives through the procurement process, and maximising purchases from local suppliers consistent with the principles of receiving value for money.

In addition, agencies are required to contact the ICN for proposed purchases over \$1 million before the release of the tender.

Purpose of the Memorandum of Understanding

The purpose of this MOU is to:

1. Establish the business relationship between NSW Agency and the ICN
2. Establish the level of services to be provided for and by NSW Agency and ICN
3. Establish the process for the provision of reports, statistics, and other information to NSW Agency to enable it to provide information and advice to the NSW Government.

This MOU will be implemented, as amended or replaced from time to time. In addition, ICN is enabled by its constitution to provide other services as agreed between the agency and the company. This MOU is not legally enforceable.

Definitions

The following definitions refer to terms and abbreviations used in the Memorandum of Understanding.

NSW Agency means the NSW Agency, and any of its offices.

ICN means the NSW ICN, Suite 3, Century Plaza, 80 Berry Street, North Sydney, NSW 2059, and any of its offices.

MOU means this Memorandum of Understanding, ‘Maximising opportunities for the procurement of Australian and New Zealand goods and services’, between the NSW Agency and the NSW ICN.

Local means goods, equipment, works, and services representing the capability of Australian and New Zealand industry.

Procurement is the process involving all activities following the decision that a good or service is required. It involves the acquisition and disposal of goods and services.

Proposed purchase for the establishment of standing, common use, and one-off contracts means the expected or estimated total value of the purchases made during the life of the contract.

Scope of the Memorandum of Understanding

Acknowledgments and Undertakings by ICN

The [Industry Capability Network](#) acknowledges that:

1. It is the responsibility of NSW Agency to evaluate all service providers and determine their ultimate suitability and compatibility to job requirements and specifications
2. It will exclude itself from the NSW Agency procurement decision making process.

ICN undertakes, under the terms of the Memorandum of Understanding, to provide but is not limited to, the following services:

1. Reports to NSW Agency on the activities it carries out in accordance with the ‘*Service Level Agreement*’ in Appendix Attachment A1 (to be developed and negotiated by NSW Agency)
2. Information to NSW Agency procurement officers (for construction, goods, and services) on local industry capability that is competitive and value for money
3. Respond to each request in the time specified by NSW Agency.

4. Provide briefings and assist in the training of NSW Agency officers to operate this MOU more effectively
5. Promote the [NSW Government Procurement Policy](#), the [NSW Government Code of Practice for Procurement](#) and business opportunities for doing business with government to all organisations registered with ICN and/or which are reviewed during the course of the MOU.

Acknowledgments and Undertakings by NSW Agency

The NSW Agency acknowledges the right of ICN to make charges for the delivery of tasks additional to those required to be delivered in accordance with the Service Level Agreement between the Government and the Industry Capability Network.

The standard services to be provided and fees are prescribed in Attachment A. Other services of a one-off nature to be provided will be as negotiated from time to time.

The NSW Agency undertakes to:

1. Apply this MOU to all relevant elements in its dealings with industry.
2. Promote ICN services throughout NSW Agency.
3. Ensure that relevant tender documentation refers industry to the ICN services about maximising local content.
4. For major projects, or special tenders, consider involving the ICN in project planning, on-site representation and tender briefing.
5. Consider information provided by the ICN to NSW Agency in its purchasing decisions and, upon request, advise the ICN how the advice was treated.
6. NSW Agency will provide the ICN with a copy of the NSW Agency forward procurement plans where it can assist with identifying local industry participation.
7. Support requests for assistance from ICN by providing relevant information on the procurement of supplies. This information may include:
 - specification or technical description or sample
 - quantity, including one-off or repetitive requirements
 - life cycle cost implications
 - delivery requirements, including delivery points

- quality requirements
 - packaging and treatment requirements
 - after sales service and support requirements
 - other logistic factors, for example warehousing and distribution
 - schedule of service providers, already contracted to government.
8. Pay within 30 days of invoice all costs for the provision of agreed additional services provided by ICN.

Delivery of information

Wherever practical, all enquiries, draft tender documents, requests for information, and reports will be delivered by electronic means (ie email). The contact address for each location and type of work will be decided by discussion between officers from NSW Agency and ICN.

The majority of requests will be between NSW Agency head office in Sydney and the company's head office in North Sydney. This does not exclude requests for assistance between NSW Agency regional offices and the company's regional offices.

Confidentiality

The Parties to this MOU will respect the confidentiality of all information provided under the MOU. Neither party will disclose any information provided to it by the other party without prior consent except when required as a statutory requirement.

In this regard, NSW Agency officers operate under a Code of Conduct which requires a high level of integrity, probity, and confidentiality, and requires officers to report any actual or potential conflict of interest. ICN will require all of its officers who will review, or have access to, any tenders, procurement plans, other documents, or information of a confidential nature, to enter into a Code of Conduct statement. The statement will:

- acknowledge the requirement for a high level of integrity, probity, and confidentiality in relation to those documents and information
- contain a confidentiality statement
- require officers to report if there is any actual or potential conflict of interest arising from the carrying out of the

officer's duties.

Review, duration and amendment

This MOU shall be reviewed each 12 months from the date of signing, and will remain in force for a period of three years unless extended with the concurrence of both parties. The MOU may be amended at any time with the concurrence of both parties.

This MOU may be terminated by either party giving notice in writing to the other party.

Notices

Communications by ICN to NSW Agency about this MOU should be addressed to:

The Executive Director
ICN NSW
Suite 3, Century Plaza,
80 Berry Street,
North Sydney NSW 2059
Phone (02) 9025 3150
Fax (02) 9181 3321
Email enquiry@icnsw.org.au

SIGNED for and behalf of the NSW Agency by:

signature.....
SIGNED for and behalf of the NSW ICN Ltd by:

signature.....
AGREED

Dated thisday
of 20.....

Attachment 1 to MoU

Service Level Agreement

Schedule

Service Level Manager: NSW Agency Provider: NSW ICN Ltd

Outputs	Service	Fees	Performance measures (including targets)

Appendix B – NSW Government preference schemes

Application of ANZ price preference margin

Preference is applied as a surcharge of 20% on the imported content of the goods (and related services) offered in a tender response.

In the example below, tenderer C initially has the lowest tender price, but tenderer A is calculated as having the lowest tender price following the application of the ANZ price preference margin.

Tenderer	A	B	C
Imported content	6,000	5,000	7,800
ANZ content	9,000	10,500	7,000
Actual tender price	15,000	15,500	14,800
20% surcharge on imported content	1,200	1,000	1,560
Preference adjusted tender price	16,200	16,500	16,360

The imported content is defined as ‘the estimated duty paid value, inclusive of the value of any services (for example overseas freight and insurance, software in computer tenders, consultancy or engineering effort), or any charges of overseas origin, together with Customs clearing charges’.

Application of Country Industries Preference Scheme

If a metropolitan New South Wales or overseas manufacturer is the preferred tenderer after the application of the ANZ price preference margin, and tender responses have also been received from:

- a) an approved New South Wales country manufacturer located outside the County of Cumberland (greater Sydney area), the cities of Newcastle, Wollongong, Penrith and Liverpool, the Camden local government area and the local government areas listed below under b), and/or
- b) an approved New South Wales country manufacturer located in the local government areas of Port Stephens, Wyong,

Wollondilly, Wingecarribee and Kiama, the cities of Gosford, Lake Macquarie, Maitland, Cessnock and Blue Mountains, Shellharbour and Kiama,

then the Country Industries Preference Scheme (CIPS) is also to be applied. For the purpose of tender evaluation, a preference margin of 5% is to be given in favour of a) above and 2.5% in favour of b) above, over all other New South Wales and overseas manufactured goods.

In the previous example, if Tenderer A is from metropolitan Sydney or from overseas, Tenderer B is from Group a) and Tenderer C is from Group b), application of the CIPS would result in:

Tenderer	A	B	C
Imported content	6,000	5,000	7,800
ANZ content	9,000	10,500	7,000
Actual tender price	15,000	15,500	14,800
20% surcharge on imported content	1,200	1,000	1,560
ANZ preference adjusted tender price	16,200	16,500	16,360
Application of CIPS	Nil	525	175
ANZ and CIPS adjusted tender price	16,200	15,975	16,185

The above calculation is based on the assumption that ANZ content refers to 'goods for which the tenderer is registered with the Department of State and Regional Development to manufacture'.

Following the application of the two preference schemes, Tenderer B now has the lowest price.

- if an Australian or New Zealand service provider (other than from New South Wales) is the preferred tenderer after the application of the ANZ preference, no CIPS is to be applied.

Further information on the application of the preference schemes may be obtained from:

Department of State and Regional Development
 Regional Development Division
 Phone (02) 9338 6717
 Fax (02) 9338 6726

Appendix C - Industry Impact Statements

The preparation of Industry Impact Statements

The aim of the NSW Government Procurement Policy in relation to economic development is to maximise opportunities for Australian and New Zealand industry participation in government procurement.

The policy does not rely on the achievement of specific local content targets. The level of local content is determined through the competitive tendering environment where selection is based on the basis of best value for money, including economic development and other selection criteria.

To maximise economic development opportunities and outcomes, for high value and strategic contracts, agencies are required to prepare Industry Impact Statements (IIS). The preparation and implementation of an IIS is a three-part process:

1. the agency identifies the Government's economic objectives and likely impacts as part of its procurement planning process (IIS). The economic development and other government value for money objectives are outlined in the request for tender/proposal documents, and the evaluation criteria are provided
2. tenderers are to identify the impacts and economic and industry benefits and provide a local industry participation plan
3. following a tender response evaluation, the successful tenderer's local industry participation plan forms part of its contractual obligations.

Requirements of Industry Impact Statements

For contracts affecting strategically significant industry sectors

Where the agency has identified the procurement is to be from a priority industry sector, tenderers are required to prepare a local industry participation plan to address local industry capabilities in terms of:

- capacity

- investment
- employment
- technology
- research and development
- exports
- track record such as past performance, particularly in the achievement of economic and social outcomes.

For contracts affecting all other industry sectors

Tenderers are required to prepare a local industry participation plan that describes the likely impact of their tender response in terms of:

- support for regional development
- support to small and medium enterprises
- workforce development and management
- technology development or technology transfer
- research and development
- export opportunities
- other factors.

Note: only those objectives achievable through the contract performance are to appear in any request for tender/proposal.

Assessment of Industry Impact Statements

Agencies must ensure that economic development criteria are included in all tenders incorporating industry impact statements and potential tenderers are advised that responses to the criteria are mandatory for the purpose of tender response evaluation.

The weightings given to the evaluation criteria in the selection process must reflect the importance the Government places on supporting local industry and the relationship between using local service providers and value for money. Appropriate weightings are to be given to each criterion and should be broadly commensurate with other compulsory criteria.

For procurements in excess of \$5 million, the weightings should be consistent with the degree to which industry development

opportunities have been identified in the Industry Impact Statement developed during the procurement planning process.

Selection is to be based on best value for money and the scores achieved against each selection criterion. The weightings given to each criterion and to value for money outcomes will vary for different contracts.

Appendix D - Economic development checklist

Obtaining best value for money is the prime consideration in any procurement activity and economic development is a key factor in procurement by NSW Government agencies.

This checklist has been developed to assist agencies to identify opportunities for the application of the government's economic development objectives.

Pre-tender (planning)

- Have local industry capabilities been identified and have they been considered in the development of procurement plans and specifications?
- Has your agency entered into a memorandum of understanding (MOU) with the NSW ICN?
- Has ICN been contacted to identify local industry capability and import replacement opportunities?
- Has advance notice of the purchase been placed on the Government's eTendering or other website?
- Are service providers encouraged to give local suppliers every opportunity to participate?
- Are measures taken to reduce the cost of doing business for SMEs in the contracting chain?
- Are measures taken to promote the benefits of using electronic procurement?
- Is an Industry Impact Statement (IIS) required? Do economic outcomes form part of the IIS?
- Has regional contracting been considered?
- If this is the renewal of an existing contract, were economic development requirements a component of the previous assessment? If not can they be included?
- If the proposed purchase is estimated to be more than \$1 million, has the ICN been contacted prior to the tender release?

- Has notification of the tender's release and pre-tender briefing been advertised in the local media?
- For complex, high value and solutions driven procurement are workshops established and briefings given to advise potential service providers of the agencies requirements and objectives/outcomes?

Tender preparation

- Have the requirements of the [NSW Government Procurement Policy](#) been included in the tender documents?
- Can economic development be incorporated in the tender?
- Have appropriate economic criteria been included in the tender documents?
- Are the specifications and tender evaluation criteria restrictive to innovation to local suppliers?
- Have the tender document requirements been reviewed to minimise the cost of preparing and submitting tenders for tenderers?
- Are local suppliers given the opportunity to compete on the basis of value for money?
- Is appropriate weighting assigned to the economic development requirement?

Evaluation

- Is there a mechanism to assess the service provider's commitment to delivering economic development outcomes?
- Have the tenderers demonstrated how they will meet with the economic development requirements of the tender?
- Is the procurement decision based on whole of life costing?
- Have performance clauses been developed to enforce the commitments entered by service providers under the LIPP at the time of tender?
- Have the outcomes been delivered in accordance with the contract?
- Has information been given to unsuccessful tenderers on their tenders?